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Tibor Pernecker

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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Attachment to Advisory Action

Response to Arguments

1. Applicant's arguments, see page 2, lines 12-15, filed 6/2/2008, with respect to objection have been fully considered and are persuasive. The objection of claims 9-15 has been withdrawn in view of the amendments.
2. Applicant's arguments, see page 2, lines 16-20 and page 3, lines 1-4, filed 6/2/2008, with respect to rejection under 35 U.S.C. § 112 first and second paragraph have been fully considered and are persuasive. The rejection of claims 7-15 under 35 U.S.C. § 112 first and second paragraph has been withdrawn in view of the amendments.
3. Applicant's arguments filed 6/2/2008 with respect to the prior art rejection set forth in paragraphs 9 and 10 in the Office action mailed 1/2/08 have been fully considered but they are not persuasive. Specifically, applicant argues that (A) Mallya et al teach the use of surfactants that are different from the ethoxylated alkyl phenol sulfates; (B) Gerst et al do not teach the use of presently claimed ethoxylated alkylphenol sulfates. Gerst et al teaches the importance of hydrazine derivative with at least two hydrazine residues per molecule; (C) examiner has acknowledged that the present claims are in fact novel over Mallya et al (for e.g., Mallya et al do not disclose styrene monomer); (D) Mallya et al teach the use of a very specific surfactant mixture i.e. a non-ionic surfactant containing at least 8 moles ethylene oxide per mole and an anionic surfactant containing less than about 10 moles ethylene oxide per mole. Mallya et al expressly teach that the level of ethoxylation has to be about 10 moles per mole surfactant or less. Thus, Mallya et al

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expressly teach away from the use of surfactants of the present invention which contain 20 moles of ethylene oxide per molecule; (E) examiner asserts that Mallya et al teach that anionic surfactants with higher levels of ethylene oxide may be used. Applicant's point out that Mallya et al would be understood by one of ordinary skill in the art to be referring to anionic surfactants that have only slightly more than about 10 moles of ethylene oxide per mole of surfactant because of the negative effects on water-whitening resistance.

With respect to (A), applicant's attention is drawn to paragraph 9 of office action mailed 1/2/2008 wherein it is stated that functional anionic surfactants include salts of sulfated nonyl and octyl phenoxy poly(ethyleneoxy) ethanols.

With respect to (B) and (C), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references i.e. a combination of Mallya et al and Gerst et al. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With respect to (D) and (E), applicant's attention is drawn to Mallya et al (column 5, lines 54-57) wherein it is taught that other anionic surfactants with higher levels of ethylene oxide (moles per mole) may be used to stabilize the emulsion particles during polymerization. It is the examiner's position that Mallya et al do not teach away from the use of presently claimed anionic surfactants because it is open to the inclusion of other anionic surfactants with higher levels of ethylene oxides per mole of surfactant including those with 20 moles of ethylene oxide. Mallya et al do not restrict these other anionic surfactant to contain less than 20 moles of ethylene oxide per mole of anionic surfactant.

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